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January 30, 2012

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Re: Administrative Council for Terminal Attachments (ACTA) *Ex Parte* Presentation  
CC Docket No. 99-216

Dear Ms. Dortch:

On January 26, 2012, representatives from the Administrative Council for Terminal Attachments (ACTA) met with representatives of the Federal Communications Commission's Wireline Competition and Enforcement Bureaus.

During the meeting, the ACTA requested that the Commission provide the ACTA and the industry with guidance regarding what equipment and services should fall under Part 68 and thus require registration under the ACTA terminal equipment database. The ACTA also noted the need for greater education and enforcement of the Commission's Part 68 rules and provided information suggesting that some manufacturers may be disregarding the Commission's Part 68 rules.

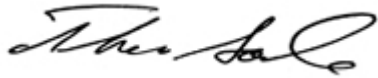
Representing the Wireline Competition Bureau (WCB) were: Kirk Burgee, Chief of Staff; Rodger Woock, Division Chief, WCB Industry Analysis Technology Division; Cathy Zima, Deputy Chief, WCB Industry Analysis Technology Division; and Jon Reel, Attorney, WCB Competition Policy Division. The individuals representing the Enforcement Bureau (EB) were: Karen Onyeije, Associate Chief; Suzanne Tetreault, Deputy Chief; Ricardo Durham, Deputy Chief; EB Spectrum Enforcement Division; Neal McNeil, Assistant Chief, EB Spectrum Enforcement Division; and John Poutasse, Acting Chief; EB Spectrum Enforcement Division.

The individuals representing ACTA at this meeting were: Jim Haynes (Compliance Engineering), ACTA Chair; Milton Bush (The M Companies), ACTA Enforcement Working Group Chair and Other Interested Party (OIP Representative); Brian Scarpelli (TIA Manager,

Government Affairs), TIA Liaison to ACTA; Jean-Paul Emard (ATIS Director), ATIS Liaison to ACTA; Kerrienne Conn, (ATIS Standards/Publications Administrator), ACTA Secretariat; and Thomas Goode, ATIS General Counsel.

Pursuant to the Commission's rules, one copy of this letter is being filed electronically for inclusion in the public record of the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Goode", written in a cursive style.

Thomas Goode  
ATIS General Counsel, on behalf of the Administrative Council for Terminal Attachments

Attachment



# The Administrative Council for Terminal Attachments (ACTA)

*Compliance Concerns & FCC/Industry  
Collaboration Next Steps*

January 2012

Jim Haynes, ACTA Chairman

Milt Bush, ACTA Enforcement WG Chairman



# Opening Statement and Summary

- Part 68 Compliance Concerns
  - A Growing Problem
  - The impact of Non-Compliance
  - Industry Evidence of Non-Compliance
- Recent ACTA Activities to Address Compliance Concerns
- Industry and FCC Collaboration: Possible Next Steps
- ACTA Background: Information provided in Appendix to this presentation



# What is the ACTA Looking For?

- As explained in more detail in this presentation, the ACTA is looking for FCC action/collaboration on two main issues:
  1. FCC Guidance Regarding Part 68 Compliance
    - The ACTA is requesting that the FCC define what equipment and services should fall under Part 68 and thus require registration under the ACTA Database.
  2. Increased Enforcement and Industry Education by the FCC on Part 68 Compliance
    - The ACTA believes that some manufacturers may be disregarding the FCC Part 68 rules.



# Part 68 Non-Compliance: The Growing Problem

- Since 2007, ACTA has documented and reported a steady decline in the number of pieces of equipment filed in the ACTA Database.
  - The lack of filings in the database, coupled with the knowledge that products continue to be built and distributed in the U.S., indicates that there is a systemic disregard of Part 68 rules and regulations within the marketplace.
- There are several potential causes for this decline; it is the general belief of ACTA that the following has contributed to the rate of decline:
  - The lack of clear guidance and/or a definition as to whether VoIP equipment capable of plugging into the PSTN needs to be registered in the ACTA Database; and
  - Less vigorous FCC public education and enforcement of the Part 68 rules and regulations.
  - A lack of understanding by the FCC and some in Industry of what equipment should be under the FCC and ACTA control.

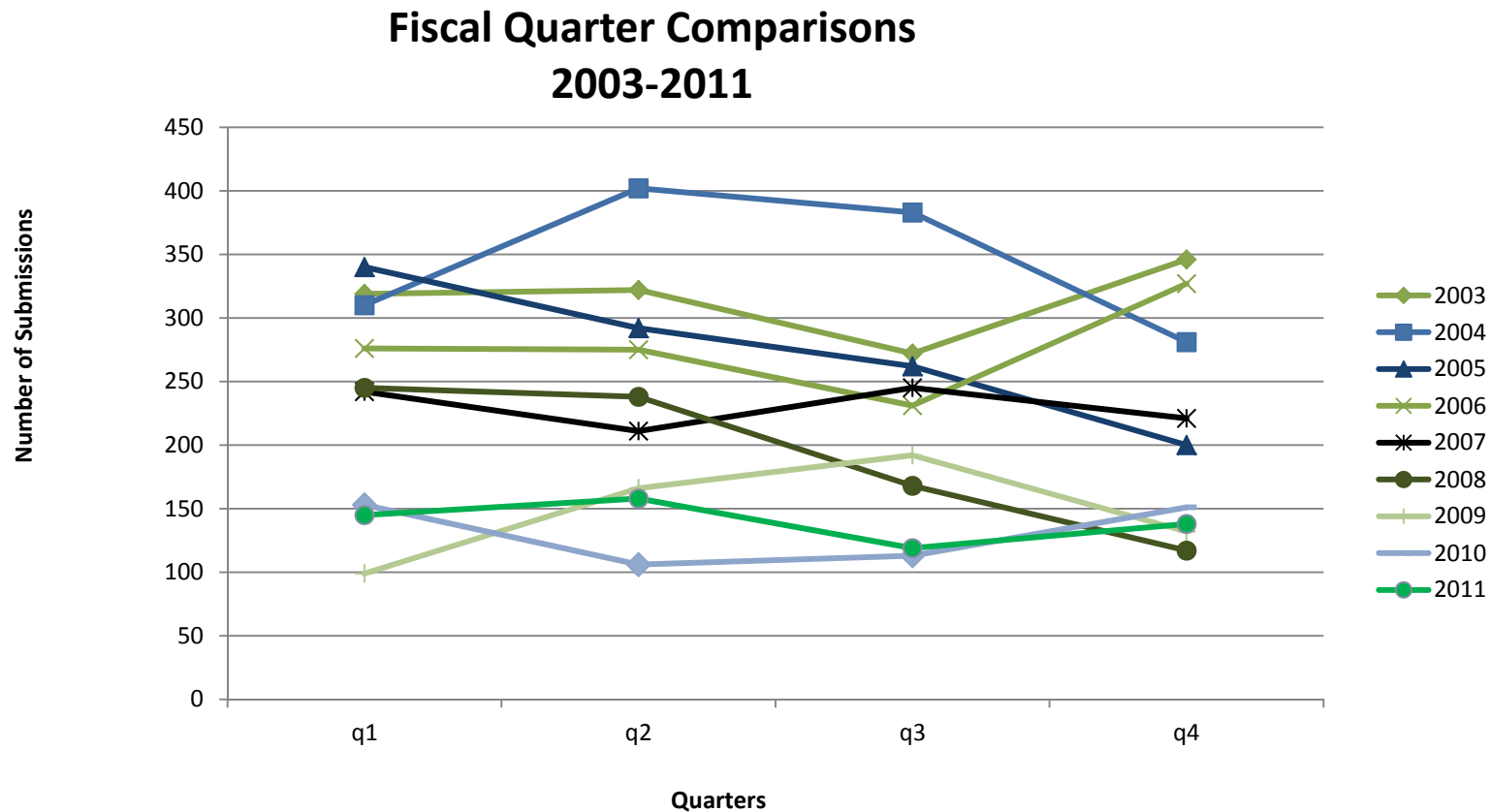


# What is the impact of Non-Compliance?

- HAC Concerns
  - Terminal equipment that does not meet the hearing aid compatibility and volume control requirements of Part 68 can create accessibility problems for hearing impaired users and/or degrade audio quality.
- Emergency Services
  - Non-compliant Telephone Terminal Equipment (TTE) may prevent access to emergency services (9-1-1).
  - With a large amount of 911 and E-911 Providers going to VoIP based services. Quality of Service (QoS) is become a major concern during emergencies.
  - Multi-use equipment (IP or TDM) falls into question as far as to what standards shall be followed by the manufacturers.



# Industry Evidence of Non-Compliance: ACTA Database Filing Trends







# Industry Evidence of Non-Compliance: ACTA Database Filing Trends

Year	Total Filings
2003	1259
2004	1376
2005	1094
2006	1109
2007	919
2008	768
2009	589
2010	523
2011	560

- Since 2003, there has been an approximately 55% decrease in filings.
- There was a small increase (about 7%) in 2011, this is most likely due to increased communication efforts by ACTA (i.e. Compliance Notification and the initiation of the RPC Data Validation Program)



## Industry Evidence of Non-Compliance: Industry Canada Filing Trends

- In an effort to combat the decline in registrations, Industry Canada (IC) performs market surveillance to assess compliance of TTE equipment deployed in the Canadian marketplace.
  - Market surveillance is performed through the regular audit of TTE samples, but it can also be driven by complaints (from the public, manufacturers, service providers, etc.)
- IC conducts two types of audits:
  - Physical Audits; and
  - Desk Audits.



## Industry Evidence of Non-Compliance: Industry Canada Filing Trends

- The results of IC's market surveillance demonstrates substantial non-compliance with IC equipment registration requirements.
  - Physical Audit: an actual test of a TTE equipment sample to verify compliance with IC's regulatory requirements.
    - From 2007-2011, 147 physical audits were conducted.  
**Approximately 16%** (23 pieces) of the equipment audited failed to comply.
  - Desk Audit: a review of a TTE technical brief in order to verify the quality of work performed by the testing laboratory.
    - From 2007 – 2011, 101 desk audits were conducted.  
**Approximately 20%** (20 pieces) of the material audited failed to comply.



# Physical Examples of Non-Compliant Equipment

- Phones from Retail Stores:
  - In conducting an informal market surveillance, ACTA members discovered pieces of TTE in the marketplace that were non-compliant with Part 68 requirements.
    - Exhibit A: [see appendix – slide 26] Has no registration markings
    - Exhibit B: [see appendix – slide 27] both an FCC and HAC sticker, however it is not registered in the ACTA Database
  - The above examples were found at random with minimal effort – it is likely that more detailed market surveillance efforts would identify many more examples.
    - The ACTA also notes that many different types of retail stores sell phone equipment; some have little or no understanding as to what can and cannot be sold in the U.S.



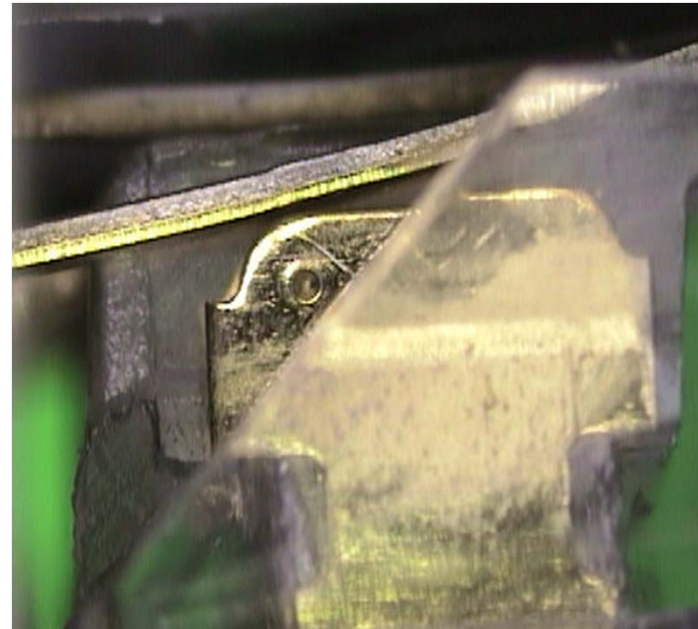
# Examples of Non-Compliant Equipment

- At Home Monitoring Systems with RJ11 Jacks
  - Informal market surveillance also led to the discovery of a number of "Wireless Life Alert systems" that came equipped with an RJ11 jack for connecting to the PSTN with supporting documentation for connection to the PSTN but had not been registered in the ACTA Database.



# Examples of Non-Compliant Equipment

- Connector Issues – contact “Lift Off”
  - Contact LIFT OFF occurs when the jack (in most cases) is too wide. When the plug is inserted into the jack, the plug does not maintain contact with the jack mating surface.
  - Because the problem may be intermittent, the consumer may have difficulties in identifying whether it is a network or CPE issue.





# Examples of Non-Compliant Equipment

- Connector Issues – Gold and Nickel Plating Issues:
  - Manufacturing cost pressures have increased on all components, especially those with gold and precious metals.
    - In some cases, quality is being compromised to meet cost pressures and materials are being used that present porosity, oxidation, conductivity, contact resistance and corrosion issues.
    - ACTA Members have noted specific concerns regarding Gold and Nickel Plating, including: Major Porosity Issues; Gold Plating Thickness; Purity of Gold Used; Nickel Plating Thickness; Gold Diffusion; and Galvanic Reaction Between Two Dissimilar Metals.
  - These issues have and may cause complete signal transmission loss or intermittent contact (that alternates rapidly between a high and low resistance), which is the worst nightmare for anyone who has to troubleshoot network equipment.



# Additional Compliance Concerns

- Manufacturers that are complying with the technical criteria of Part 68 and filing their equipment with the ACTA have been put at a competitive and financial disadvantage.
  - Noncompliant manufacturers are able to unfairly reduce their operating costs by using non-standard methods and materials in producing TTE equipment.
  - The marketplace may not address this issue:
    - Without penalties associated with noncompliance, these manufacturers will have no incentive to comply with the rules.
    - Consumers may not be able to identify the source of problems and the problems may only appear intermittently; consumers may not even know that this is an equipment problem.
    - Consumers may also simply replace faulty equipment rather than submit a formal complaint with the FCC.





# Recent ACTA Activities to Address Compliance Concerns

- February 2011: ACTA files comments with the FCC recommending increased efforts in Part 68 enforcement relating to HAC rules.
- April 2011: ACTA Chairman presents to TCB Council Meeting on ACTA Activities, stressing non-compliance concerns and how TCBs can help.
- December 2011: ACTA releases Public Notice (PN 11-03) advising TTE Manufacturers/Suppliers to review compliance with Part 68 rules.
- Previous FCC Communications:
  - March 2008: ACTA organizational changes and Part 68 compliance concerns (including physical evidence) were discussed.
  - Summer 2009: Downturn in TTE registrations and possible paths forward were discussed.



# Recent ACTA Activities to Address Compliance Concerns

- Responsible Party Code (RPC) Data Validation Program
  - A program launched in January 2011 that requires Responsible Parties to validate their RPC data on an annual basis.
  - The program assists in keeping the ACTA Database accurate.
    - Inaccurate contact information associated with an RPC poses a problem not only for FCC, U.S. Customs, and consumers who have questions/issues with products or company information, but also for ACTA when releasing important information regarding Part 68 compliance.
  - A report on those complying and not complying to this RPC Data Validation is provided to the FCC semi-annually.
- Other – All ACTA Public Notices (~4-5 annually) provide information about the partnership between ACTA and the FCC in relation to the Part 68 Database and enforcement issues.



# Industry/FCC Collaboration: The Next Steps

- FCC Staff Training on FCC/ACTA Partnership?
  - In the past and even as recently as January 9, 2012, the FCC has incorrectly informed individuals seeking Part 68 clarifications that the FCC does not answer any questions regarding Part 68 and that Part 68 registration, by being privatized is no longer an FCC Concern.
  - The ACTA is ready to help train FCC staff w/ regard to the FCC/ACTA Partnership.



# Industry/FCC Collaboration: Possible Next Steps

- FCC Guidance Regarding Part 68 Compliance
  - ACTA is requesting that the FCC define what equipment and services should fall under Part 68 and thus require registration under the ACTA Database.
  - Specifically, there is a question surrounding whether or not VoIP equipment that have jacks capable of being plugged into the PSTN need to register in the ACTA Database.
  - The recent Connect America *Order on Reconsideration* (FCC -11-189-A1), for example, notes that voice services can be carried on the PSTN or a “functionally equivalent network.”
    - The ACTA believes that this suggests that equipment used on a functionally equivalent network may need to comply to the Part 68 rules, given that such equipment could be attached to the PSTN.



# Industry/FCC Collaboration: Possible Next Steps

- Appropriations
  - Could the ACTA assist in a lobbying effort to increase appropriations allocated towards Part 68 enforcement?
- Other Education
  - The ACTA has often presented its Part 68 non-compliance concerns to the WCB and EB and plans to continue its collaboration with these bureaus. However, are there others that would benefit from understanding the role of the ACTA?
    - Other Bureaus/Offices in the FCC? For example: Homeland Security Bureau, Consumer Affairs Bureau, Office of Engineering and Technology
    - Other government agencies? For example, Federal Trade Commission



# Industry/FCC Collaboration: Possible Next Steps

- Market Surveillance
  - There are rules in place that require TCBs to participate in Market Surveillance on various equipment that TCBs test, including Part 68 equipment.
  - Would an industry- or government-led surveillance program assist in Part 68 enforcement?
    - Some ACTA Council Members, with access to testing facilities, have expressed their willingness to assist in market surveillance efforts.



# Attendees

- Jim Haynes, ACTA Chairman
- Milt Bush, ACTA Enforcement WG Chair
- Jean-Paul Emard, ATIS Liaison to ACTA
- Brian Scarpelli, TIA Liaison to ACTA
- Tom Goode, ATIS General Counsel
- Kerrienne Conn, ACTA Secretariat



# Appendix A: ACTA Background Summary





# ACTA Background

- ACTA is an open organization by the FCC established to:
  - 1) adopt technical criteria and to act as the clearing-house, publishing technical criteria for terminal equipment developed by ANSI-accredited standards development organizations; and
  - 2) establish and maintain a registration database of equipment approved as compliant with the technical criteria. The Administrative Council will not make substantive decisions regarding the development of technical criteria for interconnection to the PSTN.
- ACTA is jointly sponsored by the Alliance for Telecommunications Industry Solutions (ATIS) and the Telecommunications Industry Association (TIA).



# ACTA Background

- ACTA is a collaborative effort between the industry and the FCC
  - The ACTA works through open, consensus-based processes with the participation of industry subject matter experts (including members of TIA, ATIS, and others from the industry)
    - Underlying technical standards are developed by the industry through TIA (TIA TR-41);
    - The ACTA Secretariat (ATIS) maintains the TTE database and provides support for ACTA activities; and
    - ACTA industry representatives provide guidance regarding the database and registration of TTE, develop and revise guidelines and processes in support of the work of the ACTA, and adopt technical criteria.
  - The FCC is responsible for creating the ACTA, along with interpreting and enforcing its Part 68 rules.



# ACTA Participation and Meetings

- Participation on the Council is diverse and includes:
  - Manufacturers
  - Service Providers
  - Testing Labs
  - Other Interested Parties including the FCC
- The Council holds at least four (4) public meetings annually. Attendance at these meetings is open to the public, government, and industry. The 2012 meeting calendar is:
  - January 19, 2012 (Virtual Meeting)
  - April 12, 2012 (Face-to-Face in Washington, DC)
  - July 26, 2012 (Virtual Meeting)
  - November 1, 2012 (Face-to-Face in Washington, DC)



# Physical Examples of Non-Compliant Equipment - Exhibit A





# Physical Examples of Non-Compliant Equipment - Exhibit B

